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| 09/900,569      | 07/05/2001  | Tetsuo Ogino         | 0015049/279(128)    | 4089             |

7590 11/14/2003

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| EXAMINER |
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NGUYEN, CINDY

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| ART UNIT | PAPER NUMBER |
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2171

DATE MAILED: 11/14/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/900,569

Applicant(s)

OGINO ET AL.

Examiner

Cindy Nguyen

Art Unit

2171

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 September 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) 59-75 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 59-75 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on 04 September 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

Art Unit: 2171

DETAILED ACTION

This is in response to amendment filed 09/22/03.

**1. Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

**2. Claims 59, 61-67, 69 and 71-75 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ballantyne et al. (U.S 5867821) (Ballantyne) in view of Kotake et al. (U.S 5581460) (Kotake).**

Regarding claim 59, Ballantyne discloses: A medical image servicing system (40, fig. 2, Ballantyne) comprising: a network (22, fig. 2, Ballantyne) generally available to the public a transmitting subscriber (as physicians offices, clinics laboratories fig. 1, Ballantyne) connected to said network;

Art Unit: 2171

At least one subscriber connected to said network for transmitting and receiving medical image and information through said network (col. 11, lines 11-27, Ballantyne);

a single server connected to said network for servicing said at least one subscriber (as physicians offices, clinics laboratories fig. 1, Ballantyne), and comprising a data base (2, master library, fig. 1, Ballantyne).

means for checking and verifying legitimacy of a subscriber to access desired medical images and information(col. 7, line 66 to col. 8, lines 64, Ballantyne);

Means for processing and delivering said medical images and information to said at least one subscriber after checking and verifying legitimacy of said subscriber to said desired medical images and information (col. 7, line 66 to col. 8, lines 64, Ballantyne), said medical images being associated with at least one image selected from the group consisting of MRI, X-ray CT, ultrasonod, PET, digitized X-ray and CR (col. 9, line 47-50, Ballantyne); and

Wherein said single server further comprises:

Means for compressing in data size medical images when transmitted on said network and for decompressing in data size said medical images to original data size when received by said at least one subscriber (col. 9, line 40-57, Ballantyne); and

Means for producing backup of said medical images registered in said database (col. 13, line 10-20, Ballantyne).

However, Ballantyne didn't disclose: means for registering in said database medical images and information transmitted by said at least one subscriber. On the other hand, Kotake discloses: means for registering in said database medical images and information transmitted by said at least one subscriber (7a, fig. 5 and corresponding text, Kotake). Therefore, at the time the

Art Unit: 2171

invention was made, it would have been obvious to a person of ordinary skill in the art to include the steps for registering in said database medical images and information transmitted by said at least one subscriber in the system of Ballantyne as taught by Kotake. The motivation being enable to register a plurality of medical diagnostic image data on patients with attaching registration numbers indicating corresponding medical diagnostic image data (col. 2, lines 50-55, Kotake).

Regarding claim 61, all the limitations of this claim have been noted in the rejection of claim 59 above. In addition, Ballantyne/Kotake discloses: wherein said at least one subscriber is a software executing subscriber running medical software (col. 4, lines 30-36, Ballantyne); and wherein said single server manages medical software and registers said medical software in said database and causes delivery of said medical software to said software executing subscriber (col. 6, lines 47 to col. 7, lines 6, Ballantyne).

Regarding claim 62, all the limitations of this claim have been noted in the rejection of claim 59 above. In addition, Ballantyne/Kotake discloses: wherein two or more subscribers are provided (Doctors offices and clinics Laboratories, fig. 1, Ballantyne).

Regarding claim 63, all the limitations of this claim have been noted in the rejection of claim 59 above. In addition, Ballantyne/Kotake discloses: wherein said at least one subscriber comprises means for specifying types of image processing to be communicated to said single server, (col. 4, lines 30-36, Ballantyne).

Art Unit: 2171

Regarding claim 64, all the limitations of this claim have been noted in the rejection of claim 59 above. In addition, Ballantyne/Kotake discloses: wherein said single server comprises means for informing said at least one subscriber of type of image processing to be applied (col. 4, lines 52-65, Ballantyne).

Regarding claim 71, all the limitations of this claim have been noted in the rejection of claims 59 and 63 and 64 above. It is therefore rejected as set forth above.

Regarding claim 65, all the limitations of this claim have been noted in the rejection of claim 59 above. In addition, Ballantyne/Kotake discloses: wherein said single server comprises means for establishing communication with said at least one subscriber when image processing is completed (col. 6, lines 32-45, Ballantyne); and means for transmitting said medical images subjected to said image processing to said at least one subscriber (col. 9, lines 40-50, Ballantyne).

Regarding claim 66, all the limitations of this claim have been noted in the rejection of claim 59 above. In addition, Ballantyne/Kotake discloses: wherein said at least one subscriber comprises means for transmitting through said network to said server, a request for medical images subjected to image processing (col. 16, lines 22-49, Ballantyne); and means for receiving said medical image from said single server through said network (col. 16, lines 50-61, Ballantyne).

Regarding claim 67, all the limitations of this claim have been noted in the rejection of claim 59 above. In addition, Ballantyne/Kotake discloses: wherein said single server comprises means for storing each medical image in at least one form before image processing (as compressed) and means for storing each medical image in at least one form (decompressed) after said image processing (col. 14, liens 26-44, Ballantyne).

Regarding claim 69, all the limitations of this claim have been noted in the rejection of claim 59 above. In addition, Ballantyne/Kotake discloses: wherein said single server comprises means for polling said at least one subscriber through said network to collect medical images before image processing (col. 11, lines 11-27, Ballantyne).

Regarding claim 72, all the limitations of this claim have been noted in the rejection of claims 66 and 71 above. In addition, Ballantyne/Kotake discloses: reading medical images from said database; sending each medical image from said single server through said network to said one subscriber and display said medical images by said one subscriber (col. 13, lines 43 to col. 14, liens 44, Ballantyne).

Regarding claim 73, all the limitations of this claim have been noted in the rejection of claim 71 above. In addition, Ballantyne/Kotake discloses: wherein said one subscriber requests registration of said medical images and comprising the further steps of requesting imaging

Art Unit: 2171

conditions by said single server to said one subscriber or by said one subscriber to said single server through said network (col. 9, lines 15-60, Ballantyne);

Sending said imaging conditions by said one subscriber to said single server through said network or by said single server to said one subscriber through said network (col. 11, lines 11-27, Ballantyne);

Said single server registering said medical images according to imaging conditions in said database (col. 11, lines 11-27, Ballantyne).

Regarding claim 74, all the limitations of this claim have been noted in the rejection of claims 59, 71 and 72 above. It is therefore rejected as set forth above.

Regarding claim 75, all the limitations of this claim have been noted in the rejection of claim 74 above. In addition, Ballantyne/Kotake discloses: wherein said single server further sends to said one subscriber request for identification information and said one subscriber sends such identification information to said single server through said network, wherein said single server reads medical images from said database and processes said medical images prior to sending results thereof to said one subscriber (col. 9, lines 16-60, Ballantyne).

**3. Claim 60 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ballantyne et al. (U.S 5867821) (Ballantyne) in view of Kotake et al. (U.S 5581460) (Kotake) and further in view of Roewer (U.S 5734915).**



Art Unit: 2171

Regarding claim 60, all the limitations of this claim have been noted in the rejection of claim 59 above. In addition, Ballantyne/Kotake disclose: wherein said at least one subscriber comprises a hard copy device (col. 6, lines 20-31, Ballantyne). However, Ballantyne/Kotake didn't disclose: wherein said at least one subscriber transmits format information including image identifier information to said hard copy device, wherein hard copy device receives delivery information through said images corresponding to said image identifier information through said network and the provides a hard copy of said medical images. On the other hand, Roewer discloses: wherein said at least one subscriber transmits format information including image identifier information to said hard copy device (col. 10, lines 34-57, Roewer), wherein hard copy device receives delivery information through said images corresponding to said image identifier information through said network and the provides a hard copy of said medical images (col. 11, lines 45-51, Roewer). Thus, at the time invention was made, it would have been obvious to a person of ordinary skill in the art to include steps for receives delivery images through network then provides a hard copy of medical images in the combination system of Ballantyne/Kotake as taught by Roewer. The motivation being to enable the user receives medical images by print out hard copy of medical image so help doctors view clearly medical images so they understand the patient's condition and do the treatment better.

**4. Claims 68 and 70 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ballantyne et al. (U.S 5867821) (Ballantyne) in view of Kotake et al. (U.S 5581460) (Kotake) and further in view of Tanaka (U.S 6564256).**

Art Unit: 2171

Regarding claim 68, all the limitations of this claim have been noted in the rejection of claim 66 above. However, Ballantyne/Kotake didn't disclose: wherein said request is for only part or all of said medical image and wherein said part or all of said medical image are sent through said network to said at least one subscriber. On the other hand, Tanaka discloses: wherein said request is for only part or all of said medical image and wherein said part or all of said medical image are sent through said network to said at least one subscriber (col. 8, lines 3-25, Tanaka). Thus, at the time invention was made, it would have been obvious to a person of ordinary skill in the art to include steps request is for only part or all of said medical image and wherein said part or all of said medical image are sent through said network to said at least one subscriber in the combination system of Ballantyne/Kotake as taught by Tanaka. The motivation being enables to reduce and transfer of medical image at a higher speed.

Regarding claim 70, all the limitations of this claim have been noted in the rejection of claim 59 above. In addition, Ballantyne/Kotake/Tanaka discloses: wherein said single server comprises means for sending through said network to a delivery destination imaging conditions for said medical images (col. 7, lines 46 to col. 8, lines 15, Tanaka). Thus, at the time invention was made, it would have been obvious to a person of ordinary skill in the art to include steps sending through said network to a delivery destination imaging conditions for said medical images in the combination system of Ballantyne/Kotake as taught by Tanaka. The motivation being enable to transfer of related medical image data such as past medical image data of the patient and the like to the database without sending a request for transfer of the related medical image data to the database.

Art Unit: 2171

***Response to Arguments (09/22/03)***

Applicant's arguments have been considered, but are moot in view of the new ground(s) of rejection.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

**5. Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Sloane (U.S 5619991). Delivery of medical services using electronic data communications.

Kotake et al. (U.S 5581460). Medical diagnostic report forming apparatus capable of attaching image data on report.


Art Unit: 2171


**6. Contact Information**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cindy Nguyen whose telephone number is 703-305-4698. The examiner can normally be reached on M-F: 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic can be reached on 703-308-1436. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7239 for regular communications and 703-746-7240 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

  
Cindy Nguyen  
November 10, 2003

  
WAYNE AMSBURY  
PRIMARY PATENT EXAMINER